

**IN THE COURT OF APPEALS**  
**FIRST APPELLATE DISTRICT OF OHIO**  
**HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-080938
	:	TRIAL NO. B-0805818B
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
NASHON WALLACE,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.<sup>1</sup>

Following a guilty plea, defendant-appellant, Nashon Wallace, was convicted of five counts of aggravated robbery,<sup>2</sup> with accompanying firearm specifications, and one count of having weapons while under a disability.<sup>3</sup> The trial court sentenced him to serve a total of 19 years' imprisonment.

As provided in *Anders v. California*,<sup>4</sup> Wallace's appointed counsel has advised this court that, after a thorough review of the record, he can discern no arguable assignments of error to present on appeal. He has advised Wallace of this determination, and Wallace has raised a possible error in the proceedings below. Wallace's counsel now asks this court to conduct an independent review of the record to

---

<sup>1</sup> See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

<sup>2</sup> R.C. 2911.01(A)(1).

<sup>3</sup> R.C. 2923.13(A)(2).

<sup>4</sup> (1967), 386 U.S. 738, 87 S.Ct. 1396.

determine whether the proceedings below were free from prejudicial error.<sup>5</sup> He has also filed a motion to withdraw as Wallace's counsel.

We find no merit to the possible error that Woods has raised. He argues that a witness who would originally have testified against him would now testify in his favor and offer exculpatory evidence. But nothing in the record supports this claim. On direct appeal, we cannot consider matters outside the record. Allegations based on claims outside the record should be reviewed in a petition for postconviction relief.<sup>6</sup>

After reviewing the entire record, we are satisfied that Wallace's counsel has provided his client with a diligent and thorough search of the record and that he has correctly concluded that the proceedings below were free from prejudicial error.<sup>7</sup> We hold that no grounds exist to support a meritorious appeal. Therefore, we affirm the trial court's judgment and overrule counsel's motion to withdraw. We find the appeal to be frivolous under App.R. 23 and R.C. 2505.35, but refrain from taxing costs and expenses against Wallace because he is clearly indigent.

Further, a certified copy of this Judgment Entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**HENDON, P.J., DINKELACKER and MALLORY, JJ.**

*To the Clerk:*

Enter upon the Journal of the Court on September 23, 2009

per order of the Court \_\_\_\_\_.  
Presiding Judge

---

<sup>5</sup> See *State v. Dorsey*, 1st Dist. No. C-070147, 2007-Ohio-5869; *State v. Mackey* (Dec. 17, 1999), 1st Dist. No. C-990302; *Freels v. Hills* (C.A.6, 1988), 843 F.2d 958.

<sup>6</sup> See *State v. Ishmail* (1978), 54 Ohio St.2d 402, 377 N.E.2d 500; *State v. Robinson*, 1st Dist. No. C-040592, 2006-Ohio-1217.

<sup>7</sup> See *Penson v. Ohio* (1988), 488 U.S. 75, 109 S.Ct. 346; *Dorsey*, supra.